

Karnataka High Court
Sri Parashurama Gowdar vs State Of Karnataka on 16 May, 2023
Bench: M G Bymguj

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CRL.P No. 1541 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MRS JUSTICE M G UMA
CRIMINAL PETITION NO. 1541 OF 2023

BETWEEN:

SRI. PARASHURAMA GOWDAR,
S/O. HANUMANTHA GOWDAR,
AGED ABOUT 24 YEARS,
RESIDING AT RAMATHAHALA VILLAGE,
HUNAGUDA TALUK,
BAGALAKTOE DISTRICT - 587 120.

...PETITIONER

(BY SRI. RAGHAVENDRA P.H, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
GOURIBIDANUR TOWN
POLICE STATION,
CHIKKABALLAPUR DISTRICT,
REPRESENTED BY STATE
PUBLIC PROSECUTOR,
HIGH COURT BUILDING-560 001.
(REPRESENTED BY SPP)

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by PAVITHRA N

Location: High
Court Of
Karnataka

2. MR. SRISHYLA,
S/O. THIPPANNA MASATAL,
AGED ABOUT 39 YEARS,
KSRTC DRIVER,
R/AT HIREBENDANUR
GOWRIBIDANUR TALUK,
CHIKKABALLAPUR-562 101.

...RESPONDENTS

(BY SRI.KRISHNA KUMAR K.K., HCGP)

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CRL.P No. 1541 of 2023

THIS CRL.P IS FILED U/S.439 OF CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.64/2022 OF GOWRIBIDANUR TOWN P.S., CHICKBALLAPURA FOR THE OFFENCE P/U/S.366, 376(2)(n) OF IPC AND SEC.9 OF CHILD MARRIAGE RESTRAINT ACT AND SEC.6 OF POCSO ACT PENDING ON THE FILE OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE FTSC-1 COURT, CHIKKABALLAPURA IN SPL.C.NO.140/2022.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner-accused is before this Court seeking grant of bail under Section 439 of Cr.P.C. in Crime No.64/2022 of Gowribidanur Town Police Station, pending in Spl.C.No.140/2022 on the file of the learned Additional District and Sessions Judge, FTSC-I Court, Chikkaballapur, registered for the offences punishable under Section 9 of the Child Marriage Restraint Act, Section 6 of POCSO Act and Sections 366, 376(2)(n) of the Indian Penal Code (for short 'IPC'), on the basis of the first information lodged by the informant- Mr.Srishyla.

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2. Heard Sri.Raghavendra.P.H, learned counsel for the petitioner and Sri. Krishna Kumar K.K, learned High Court Government Pleader for the respondent-State. Perused the materials on record.

3. Learned counsel for the petitioner submitted that the petitioner is the sole accused. He is aged about 24 years. He is innocent and has not committed any offences as alleged. He has been falsely implicated in the matter without any basis. He was apprehended on 02.09.2022 and since then he is in judicial custody. The investigation has been completed and the charge sheet is also filed. Learned counsel for the petitioner further submits that the victim is already a major, aged more than 18 years. She has not undergone medical examination. Even her statement was recorded under Section 164 of Cr.P.C. In view of the same, the petitioner is entitled to be enlarged on bail. Detention of the petitioner in custody would amount to pre-trial punishment. He is not having any criminal antecedents. The petitioner is the permanent resident of the address mentioned in the cause title to the petition and is ready and willing to abide by any of the conditions that would be imposed by this Court CRL.P No. 1541 of 2023

4. Per contra, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner for having committed the offences. The victim was aged about 16 years and 7 months at the time of the incident. The petitioner knowing fully well that the victim is a minor has committed sexual assault by kidnapping her. Looking to the nature and seriousness of the offence, the petitioner is not entitled for grant of bail. Hence, he prays for

dismissal of the petition.

5. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioner is entitled for grant of bail under Section 439 of Cr.P.C.?"

My answer to the above point is in 'Affirmative' for the following:

REASONS

6. The allegations made against the petitioner is of serious nature. The victim is said to be a minor girl aged CRL.P No. 1541 of 2023 about 17 years. Her statement under Section 164 of Cr.P.C was recorded by the learned Magistrate, wherein, the victim has given reasons for accompanying the petitioner. She has also stated that she has married the petitioner and had physical relationship. Admittedly, the victim has refused to undergo medical examination. It is stated that the victim is residing with her parents. The petitioner is aged about 24 years and is not having any criminal antecedents. Therefore, detention of the petitioner in custody would amount to infringement to his right to life and liberty. Hence, I am of the opinion that the petitioner is entitled to be enlarged on bail subject to conditions, which will take care of the apprehension expressed by the learned High Court Government Pleader that the petitioner may abscond or may tamper or threaten the prosecution witnesses.

7. Accordingly, I answer the above point in the affirmative and proceed to pass the following:

CRL.P No. 1541 of 2023 ORDER The petition is allowed.

The petitioner is ordered to be enlarged on bail in Crime No.64/2022 of Gowribidanur Town Police Station, on obtaining a bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the jurisdictional Court, subject to the following conditions:

- a). The petitioner shall not commit similar offences.
- b). The petitioner shall not threaten or tamper with the prosecution witnesses.
- c). The petitioner shall appear before the Court as and when required.

If in case, the petitioner violates any of the conditions as stated above, the prosecution will be at liberty to move the Trial Court seeking cancellation of bail.

On furnishing the sureties by the petitioner, the Trial Court is at liberty to direct the Investigating Officer to verify the correctness of the address and authenticity of the documents furnished by the petitioner and the sureties and a CRL.P No. 1541 of 2023 report may be called for in that regard, which is to be submitted by the Investigating Officer within 5 days. The Trial Court on satisfaction,

may proceed to accept the sureties for the purpose of releasing the petitioner on bail.

Sd/-

JUDGE SMC CT: AVB